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DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

<b>PUBLIC MEETING NOTICE:</b>	<b>BOARD OF DENTISTRY &amp; DENTAL HYGIENE</b>
<b>DATE AND TIME:</b>	<b>Thursday, May 15, 2014 at 3:00 p.m.</b>
<b>PLACE:</b>	<b>Cannon Building, Second-Floor Conference Room A 861 Silver Lake Boulevard, Dover, DE 19904</b>
<b>APPROVED:</b>	<b>June 19, 2014</b>

#### **MEMBERS PRESENT**

John Lenz, DDS, Professional Member, President  
Lucinda Bunting, DMD, Professional Member  
Brian McAllister, DDS, Professional Member, Secretary  
Thomas A. Mercer, DMD, Professional Member  
Sharon Welsh, DDS, Professional Member  
Carol Argo, RDH, Professional Hygiene Member  
Nathaniel Gibbs, Public Member  
June Ewing, Public Member  
Debra Bruhl, RDH, Hygiene Advisory Member  
Buffy Parker, RDH, Hygiene Advisory Member (3:00 p.m. – 4:30 p.m.)  
Mary Trinkle, RDH, Hygiene Advisory Member

#### **MEMBERS ABSENT**

#### **DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Amanda McAtee, Administrative Specialist II  
Jennifer Singh, Deputy Attorney General

#### **PUBLIC PRESENT**

Corinna Getchell, Director of Health Facilities Licensing and Certification

#### **CALL TO ORDER**

Dr. Lenz called the meeting to order at 3:10 p.m.

#### **Update on HB 47, HB 144, and SB 140 – Corinna Getchell**

Ms. Getchell stated that House Bill 47 was signed on May 4, 2011 and formed the law that gave the Department of Health and Social Services (DHSS) the authority to inspect facilities where invasive medical procedures were to be performed. House Bill 144 was signed on July 5, 2011 and allowed for a person's spouse to file a complaint concerning unsafe or unsanitary conditions at a facility where invasive medical procedures were performed. It also gave DHSS the authority to promulgate regulations for facility accreditation. House Bill 144 banned individuals from working in any facility where invasive medical procedures were performed that was not licensed or accredited. Senate Bill 140 was signed on July 31, 2013 and this bill built on House Bill 47 and House Bill 144 by allowing a complaint to be submitted from an employee of a facility that performed invasive procedures. Senate Bill 140 also required that facilities that performed invasive procedures had to receive accreditation

from an independent agency. Ms. Getchell stated that regulations were published as final on February 1, 2014 and became effective on February 11, 2014. All facilities that perform invasive medical procedures must have accreditation or be in the process of receiving accreditation by August 11, 2014. Ms. Getchell stated that the accreditation service had to be an approved accreditation organization through DHSS and that American Association of Ambulatory Health Care and Health Facilities Accreditation Commission were two accreditation services that were approved by DHSS. Ms. Getchell stated that the fees from these accreditation companies could be thousands of dollars.

Ms. Getchell stated that she had met with Dr. Lenz, Dr. Petrunich, and Dr. McClure to work on ways to expand the Board's Anesthesia Advisory Committee's current inspection process to include facility accreditation. Ms. Getchell stated that the Anesthesia Advisory Committee was not an approved accreditation service through DHSS.

Dr. McAllister stated that by that definition the DHSS law and regulations affected unrestricted and restricted permit I holders and that restricted permit II was not affected. Dr. McAllister stated that the Board had the Anesthesia Advisory Committee completing inspections for their permit holders and questioned what kind of inspections physicians had done in the past before HB 47, HB 144, and SB 140 were enacted. Ms. Getchell stated that the physicians have not had an inspection process in place and that was part of the reason these laws and regulations came about.

Dr. McAllister stated that from his understanding there was no grandfather provision and that the inspections would have to be done for everyone that held either an unrestricted permit or restricted permit I. Dr. McAllister stated that he had two offices and two other dentists in the office that held the same permits. Dr. McAllister questioned how many site inspections would have to be completed. Ms. Getchell stated that it would just be the facility that needed the accreditation and that there was not a grandfather provision.

Dr. McAllister questioned if there would be a risk to have Dr. Petrunich complete the inspections for accreditation because in the law it stated there shouldn't be a conflict of interest. Ms. Getchell stated that this was discussed at their meetings and Dr. Petrunich's resolution was to create a waiver that would be signed before he completed the accreditation inspection. Dr. Lenz stated that it had been suggested to expand the group of inspectors in the Anesthesia Advisory Committee to include more than Dr. Petrunich to complete the accreditation inspections. Dr. McAllister stated that Dr. Petrunich estimated that approximately 50 accreditation inspections would have to be completed and each inspection would take about a half of a day to complete and it seemed to be a lot for one person to take on.

Dr. Lenz questioned how often facilities would need re-inspection to maintain accreditation. Ms. Getchell stated that the accreditation services inspected every three years. Dr. Lenz questioned who would approve the re-inspection guidelines. Ms. Getchell stated that it would have to be approved by her office.

Dr. Lenz questioned where Dr. Petrunich was in the accreditation inspection approval process. Ms. Getchell stated that her last deadline given to Dr. Petrunich was May 23, 2014 and that the registration form was sent out by her office and that Dr. Petrunich would need to send out the registration application to offices that needed accreditation.

Dr. Lenz questioned if an unrestricted permit or restricted permit I holder had the option of using whichever approved accreditation service they wished. Ms. Getchell stated that would be allowed.

Dr. Lenz stated that at the June 19, 2014 meeting the Board would invite Dr. Petrunich and Ms. Getchell to attend to discuss the facility accreditation process further.

### **REVIEW AND APPROVAL OF MINUTES**

The Board reviewed the minutes of the March 27, 2014 Board meeting. Dr. Mercer made a motion, seconded by Dr. Bunting, to approve the minutes as presented. By unanimous vote, the motion carried.

The Board reviewed the minutes of the April 16, 2014 special meeting. Dr. McAllister made a motion, seconded by Ms. Argo, to approve the minutes as presented. By unanimous vote, the motion carried.

The Board reviewed the minutes of the May 2, 2014 Board exam calibration meeting. Dr. Welsh made a motion, seconded by Dr. Mercer, to approve the minutes as presented. By unanimous vote, the motion carried.

### **UNFINISHED BUSINESS**

Deliberation and Vote on Proposed Amendment of Rules and Regulations to identify when a successful practical clinical examination score expires in 5 years thus requiring a new applicant to re-take the exam. The proposed amendment also eliminates language from regulation 10 which is redundant with the statute.

Ms. McAtee stated that public comment was not received. After review and discussion, Ms. Bruhl made a motion, seconded by Dr. Bunting, to approve the proposed rules and regulations change. By unanimous vote, the motion carried.

### **Continued Discussion of International Dental Students and 24 Del. C. 1122(a)(1)**

Dr. Welsh stated that a question was raised by a dentist who had graduated from a dental school in Mexico and successfully gone on to complete a GPR and period residency here in the U.S. The dentist wanted to sit for the Delaware Board Examination which he could sit for the exam however; he would not be able to obtain licensure in the State of Delaware or in most other states in the U.S. because he did not graduate from a CODA approved school. Dr. Welsh stated that she had contacted Jane Jasek with the ADA for some additional information on international dental students and CODA approval. Dr. Welsh stated that most states depended on CODA approval as international dental schools did not have "standard" curriculums could be sporadic in nature. Dentists who graduated from a dental school outside of the United States were often referred back to a U.S. dental school to complete a two year "equivalency" in order to graduate from a U.S. dental school and therefore have education from a CODA approved school. Dr. Welsh stated that the ADA had a guide for international dentists that was available on their website.

### **Review and Deliberation of Revised Consent Agreement for Dr. Keith Nguyen**

The Board reviewed and discussed the consent agreement Dr. Keith Nguyen. Dr. Lenz stated that he was contacted by the prosecutor's office to discuss discipline and therefore, he would be recused from the vote. Ms. Singh stated that the fine was increased from \$250 to \$1000. Ms. Singh stated that the Board was to decide whether to accept or reject the consent agreement as presented and that the Board could not modify it in any way.

Dr. McAllister stated that there should have been some discipline in the consent agreement that involved probation and record reporting. Dr. Bunting stated that she felt the punishment was not fitting for such an egregious infraction. Dr. Mercer stated that there needed to be some sort of license suspension imposed. Ms. Argo stated that a licensee that knowingly violated the law should receive a

consequence that was more than the minimum. Dr. Mercer recommended that a better disciplinary action would be to keep the letter of reprimand and the \$1000 fine and to add 3 additional CPEs of ethics and a one year license suspension with eligibility to lift the suspension after 90 days with proof that all employees that were hired and/or working were properly licensed. Ms. Singh questioned what the minimum discipline the Board would accept would be. Dr. Mercer recommended that Dr. Nguyen's license should be suspended for 30 to 90 days with the remainder of the one year suspension to be served on probation. In addition, Dr. Mercer suggested that Dr. Nguyen should be required to submit a report in order to lift the suspension and then submit quarterly reports during probation.

After discussion, Ms. Argo made a motion, seconded by Dr. Mercer, to reject the consent agreement for Dr. Nguyen. The motion carried by majority with Ms. Ewing opposed.

Ms. Singh stated that she would contact the prosecutor and explain the Board's opposition to the consent agreement and their recommendations.

## **NEW BUSINESS**

### **RATIFICATION OF LICENSES/PERMITS ISSUED BY DPR SINCE LAST BOARD MEETING**

#### **Dentists – None**

#### **Dental Hygienists**

Ms. Parker made a motion, seconded by Dr. Bunting, to ratify the dental hygiene licensure of Lisa D. Ellers and Althea O. Boulware. By unanimous vote, the motion carried.

#### **Restricted Permit I – None**

#### **Restricted Permit II – None**

#### **Unrestricted Permit – None**

#### **Dentist Limited – Resident**

Dr. Bunting made a motion, seconded by Mr. Gibbs, to ratify the dentist limited resident licenses of Andrew Michael McGarry and Nitish Gangoli. By unanimous vote, the motion carried.

#### **Discussion of Proposed Regulation Regarding Late Renewal Period**

Ms. McAtee stated that she had noticed that the Board's rules and regulations did not include a cutoff for a lapsed license and that some Board's only allow a licensee to renew their license up to three months after expiration and after three months they would have to re-apply for licensure. Ms. Singh stated that the statute allowed for licensees to renew up to a year after the expiration date without re-applying for licensure. Ms. Singh stated that she had drafted a few proposals for the Board to consider for modifying their rules and regulations to make the late renewal period clearer to licensees.

Dr. McAllister stated that he wished to keep the lapsed license period as one year. After discussion and review, Dr. McAllister made a motion, seconded by Dr. Bunting, to propose a rules and regulations change to clarify the lapsed renewal period as one year as Ms. Singh had proposed. By unanimous vote, the motion carried.

Ms. Singh stated that she would submit the rules and regulations change to published in the June 2014 edition of the register of regulations and the hearing would be held at the August 21, 2014 meeting.

Discussion of Preceptorship Reciprocity Applicants

Ms. McAtee stated that Ms. Parker had brought up this topic at the last meeting and wished to discuss it at the May meeting however; Ms. Parker had to leave the meeting early and was not present to discuss the topic. Due to her absence the Board tabled the discussion for the June 19, 2014 meeting.

Review of Applications for Licensure – none

Review Hearing Officer Recommendations – none

Dentist Appeal Hearing Recommendation – none

Continuing Education Approval

Melissa Panek, RDH

Paychex, Bloodborne Pathogens, PPE, Hazard Communications, Access to Medical Records, 1 CPE

Dr. McAllister stated that it did not appear that this course was CODA or PACE approved and that the resumes of the presenters were not supplied with the application. Ms. McAtee stated that Paychex was a payroll/human resource company. Dr. McAllister stated that this type of course had not been approved in the past and that the Board could not approve it based on what was submitted and due to its lack of CODA or PACE approval. After discussion and review, Dr. McAllister made a motion, seconded by Ms. Argo to reject the continuing education approval request from Melissa Panek for Paychex, Bloodborne Pathogens, PPE, Hazard Communications, Access to Medical Records for one CPE credit. By unanimous vote, the motion carried.

**COMPLAINT UPDATES**

New Complaints

09-08-14

09-09-14

09-10-14

09-11-14

Dr. Lenz stated that the Board had received six new complaints.

Dismissed by the Division of Professional Regulation

09-05-13

09-07-13

09-08-13

09-12-13

09-13-13

Dr. Lenz stated that five complaints had been dismissed by the Division of Professional Regulation.

Forwarded to the Office of the Attorney General

09-03-13

Dr. Lenz stated that complaint 09-03-13 had been forwarded to the Attorney General's office.

**DISCIPLINE AND COMPLIANCE**

Ms. McAtee stated that Dr. Rodriguez submitted another quarterly report.

**Request for Waiver or Extension of Continuing Education Requirements**

Ms. McAtee stated that she had recently received a waiver or extension request of continuing education requirements from a licensee whom she could not name due to a pending hearing. Ms. McAtee stated that the licensee had been unable to complete the CPE requirements due to the circumstances in the licensee's life at the current time and for the past year. Ms. Singh stated that the Board could extend the deadline of the requirement in order to give the licensee time to complete the requirement. After review and discussion, Ms. Bruhl made a motion, second by Dr. Welsh, to give the licensee a one year extension in order to complete the CPE credit requirements with a deadline of May 31, 2014. The motion carried with Mr. Gibbs abstained.

Ms. McAtee stated that she had recently received correspondence from another licensee that had requested an extension or waiver for her CPE requirements because her child had recently passed away. Ms. McAtee stated that she did not recall the name of the licensee but had discussed with the Division of Professional Regulation's Information Center earlier in the day the situation and had confirmed that the licensee had been licensed for less than the two year period. Ms. McAtee wanted the Board to consider the request under the circumstances known to her since the next meeting would be after all licenses had expired. Dr. Bunting questioned if the Board could just waive the requirement for the 2014 renewal. Ms. Singh stated that the Board could issue such a waiver. After discussion, Ms. Bruhl made a motion, seconded by Dr. Welsh, to grant a waiver for the licensee whose child had passed away. By unanimous vote, the motion carried.

**CORRESPONDENCE**

There was no correspondence.

**OTHER BUSINESS BEFORE THE BOARD**

There was no other business before the Board.

**PUBLIC COMMENT**

There was no public comment.

**NEXT MEETING**

The next meeting will be June 19, 2014 at 3:00 p.m. in Conference Room A located on the second floor of the Cannon building at 861 Silver Lake Boulevard, Dover, DE.

**ADJOURNMENT**

There being no further business to discuss, Mr. Gibbs made a motion, seconded by Ms. Bruhl, to adjourn the meeting at 5:42 p.m. By unanimous vote, the motion to adjourn carried.

Respectfully Submitted,



Amanda McAtee  
Administrative Assistant II

*The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.*